

HOUSE BILL NO. 203

INTRODUCED BY A. OLSON

BY REQUEST OF THE SECRETARY OF STATE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING BALLOT
6 MEASURES; REVISING THE DEFINITION OF "SIGNATURE GATHERER"; CLARIFYING THAT PETITIONS
7 FOR BALLOT MEASURES ARE TO BE CIRCULATED BY SIGNATURE GATHERERS; PROVIDING
8 REQUIREMENTS FOR INTERNET POSTING OF PETITIONS FOR BALLOT MEASURES; REQUIRING
9 PETITIONS FOR BALLOT MEASURES TO INCLUDE THE ~~DATE OF BIRTH~~ INITIALS OF THE PERSON
10 SIGNING THE PETITION AND THE DATE WHEN THE FIRST SIGNATURE WAS GATHERED; CONFORMING
11 REQUIREMENTS FOR SIGNATURES FOR INITIATIVE MEASURES AND INITIATIVES FOR
12 CONSTITUTIONAL AMENDMENTS TO CONSTITUTIONAL REQUIREMENTS FOR GATHERING
13 SIGNATURES IN ONE-HALF OF THE COUNTIES; REVISING REQUIREMENTS FOR SUBMISSION OF
14 PETITION SHEETS FOR BALLOT MEASURES FOR VERIFICATION OF SIGNATURES; REQUIRING
15 CERTIFICATION OF SIGNATURES ON PETITIONS FOR BALLOT MEASURES BY THE SIGNATURE
16 GATHERER; AUTHORIZING THE SECRETARY OF STATE TO REJECT PETITIONS FOR BALLOT
17 MEASURES SUBMITTED FOR TABULATION OF SIGNATURES THAT DO NOT MEET STATUTORY
18 REQUIREMENTS; AMENDING SECTIONS 13-27-111, 13-27-201, 13-27-202, 13-27-204, 13-27-205,
19 13-27-206, 13-27-207, 13-27-301, 13-27-302, 13-27-303, 13-27-304, AND 13-27-307, MCA; AND PROVIDING
20 AN EFFECTIVE DATE."

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23
24 **Section 1.** Section 13-27-111, MCA, is amended to read:
25 **"13-27-111. Definitions.** As used in 13-27-112, 13-27-113, and this section, unless otherwise indicated
26 by the context, the following definitions apply:
27 (1) "Commissioner" means the commissioner of political practices provided for in 13-37-101.
28 (2) "Paid signature gatherer" means a signature gatherer who is compensated in money for the
29 collection of signatures.
30 (3) "Person" has the meaning provided in 13-1-101, but does not include a candidate and includes a

1 political committee.

2 (4) "Signature gatherer" means an individual who collects ~~or intends to collect~~ signatures on a petition
3 for the purpose of an initiative, a referendum, or the calling of a constitutional convention."
4

5 **Section 2.** Section 13-27-201, MCA, is amended to read:

6 **"13-27-201. Form of petition generally.** (1) A petition for the initiative, for the referendum, or to call
7 a constitutional convention must be substantially in the form provided by this chapter. Clerical or technical errors
8 that do not interfere with the ability to judge the sufficiency of signatures on the petition do not render a petition
9 void.

10 (2) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may be
11 fastened in sections of not more than 25 sheets. Near the top of each sheet containing signature lines must be
12 printed the title of the statute or constitutional amendment proposed or the measure to be referred or a statement
13 that the petition is for the purpose of calling a constitutional convention. If signature lines are printed on both the
14 front and back of a petition sheet, the information required above must appear on both the front and back of the
15 sheet. The complete text of the measure proposed or referred must be attached to or contained within each
16 signature sheet if sheets are circulated separately. The text of the measure must be in the bill form provided in
17 the most recent issue of the bill drafting manual furnished by the legislative services division. If sheets are
18 circulated in sections, the complete text of the measure must be attached to each section.

19 (3) An internet posting of petition language must include a statement that the petition language and
20 format may not be modified. An internet posting must include an affidavit in substantially the same form as
21 prescribed by the secretary of state PURSUANT TO 13-27-302."
22

23 **Section 3.** Section 13-27-202, MCA, is amended to read:

24 **"13-27-202. Recommendations -- approval of form required.** (1) Before submission of a sample
25 sheet to the secretary of state pursuant to subsection (3), the following requirements must be fulfilled:

26 (a) The text of the proposed measure must be submitted to the legislative services division for review.

27 (b) The legislative services division staff shall review the text for clarity, consistency, and any other
28 factors that the staff considers when drafting proposed legislation.

29 (c) Within 14 days after submission of the text, the legislative services division staff shall make to the
30 person submitting the text written recommendations for changes in the text or a statement that no changes are

1 recommended.

2 (d) The person submitting the text shall consider the recommendations and respond in writing to the
3 legislative services division, accepting, rejecting, or modifying each of the recommended changes. If no changes
4 are recommended, no response is required.

5 (2) The legislative services division shall furnish a copy of the correspondence provided for in
6 subsection (1) to the secretary of state, who shall make a copy of the correspondence available to any person
7 upon request.

8 (3) Before a petition may be circulated for signatures, a sample sheet containing the text of the
9 proposed measure must be submitted to the secretary of state in the form in which it will be circulated. The
10 sample petition may not be submitted to the secretary of state more than 1 year prior to the final date for filing
11 the signed petition with the county election administrator. The secretary of state shall refer a copy of the petition
12 sheet to the attorney general for approval. The secretary of state and attorney general shall each review the
13 petition for sufficiency as to form and approve or reject the form of the petition, stating the reasons for rejection,
14 if any. The attorney general shall also review the petition as to its legal sufficiency. If the attorney general
15 determines that the petition is legally deficient, the attorney general shall notify the secretary of state of that fact
16 and provide a copy of the determination to the secretary of state and to the petitioner within the time provided
17 in 13-27-312(8). The petition may not be given final approval by the secretary of state unless the attorney
18 general's determination is overruled pursuant to 13-27-316. As used in this section, "legal sufficiency" means
19 that the petition complies with the statutory prerequisites to submission of the proposed measure to the electors
20 and that the text of the proposed measure complies with constitutional requirements governing submission of
21 ballot measures to the electorate. Review of a petition for legal sufficiency does not include consideration of the
22 merits or application of the measure if adopted by the voters. The secretary of state or the attorney general may
23 not reject the petition solely because the text contains material not submitted to the legislative services division
24 unless the material not submitted to the legislative services division is a substantive change not suggested by
25 the legislative services division.

26 (4) (a) The secretary of state shall review the comments and statements of the attorney general
27 received pursuant to 13-27-312 and make a final decision as to the approval or rejection of the petition.

28 (b) The secretary of state shall send written notice to the person who submitted the petition sheet of the
29 approval or rejection of the form of the petition within 28 days after submission of the petition sheet.

30 (c) If an action is filed challenging the validity of the petition, the secretary of state shall immediately

1 notify the person who submitted the petition sheet.

2 (5) A petition with technical defects in form may be approved with the condition that those defects will
3 be corrected before the petition is circulated for signatures.

4 (6) The secretary of state shall upon request provide the person submitting the petition with a sample
5 petition form, including the text of the proposed measure, the statement of purpose, and the statements of
6 implications, all as approved by the secretary of state and the attorney general. The petition may be circulated
7 by a signature gatherer in the form of the sample prepared by the secretary of state. The petition may be
8 circulated by a signature gatherer upon approval of the form of the petition by the secretary of state and the
9 attorney general pending a final determination of its legal sufficiency."
10

11 **Section 4.** Section 13-27-204, MCA, is amended to read:

12 **"13-27-204. Petition for initiative.** (1) The following is substantially the form for a petition calling for
13 a vote to enact a law by initiative:

14 PETITION TO PLACE INITIATIVE NO. _____
15 ON THE ELECTION BALLOT

16 (a) If 5% of the voters in each of ~~34 legislative representative districts~~ 28 counties ONE-HALF OF THE
17 COUNTIES sign this petition and the total number of voters signing this petition is, this measure will appear
18 on the next general election ballot. If a majority of voters vote for this measure at that election, it will become law.

19 (b) We, the undersigned Montana voters, propose that the secretary of state place the following
20 measure on the, 20..., general election ballot:

21 (Title of measure written pursuant to 13-27-312)

22 (Statement of implication written pursuant to 13-27-312)

23 (c) Voters are urged to read the complete text of the measure, which appears (on the reverse side of,
24 attached to, etc., as applicable) this sheet. A signature on this petition is only to put the measure on the ballot
25 and does not necessarily mean the signer agrees with the measure.

26 (d)

27 WARNING

28 A person who purposefully signs a name other than the person's own to this petition, who signs more
29 than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject
30 to a \$500 fine, 6 months in jail, or both.

1 (e) Each person is required to sign the person's name and list the person's address or telephone
2 number in substantially the same manner as on the person's voter registration card or the signature will not be
3 counted.

4 (2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature,
5 residence address, ~~legislative representative district number~~ county of residence, and AND printed last name AND
6 FIRST AND MIDDLE INITIALS of the signer, ~~and the signer's date of birth~~. In place of a residence address, the signer
7 may provide the signer's post-office address or the signer's home telephone number. An address provided on
8 a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may
9 not be used as the only means to disqualify the signature of that petition signer."

10
11 **Section 5.** Section 13-27-205, MCA, is amended to read:

12 **"13-27-205. Petition for the referendum.** (1) The following is substantially the form for a petition calling
13 for approval or rejection of an act of the legislature by the referendum:

14 PETITION TO PLACE REFERENDUM NO. _____
15 ON THE ELECTION BALLOT

16 (a) If 5% of the voters in each of 34 legislative representative districts sign this petition and the total
17 number of voters signing the petition is, Senate (House) Bill Number will appear on the next general
18 election ballot. If a majority of voters vote for this measure at that election it will become law.

19 (b) We, the undersigned Montana voters, propose that the secretary of state place the following Senate
20 (House) Bill Number, passed by the legislature on on the next general election ballot:

21 (Title of referendum written pursuant to 13-27-312)

22 (Statement of implication written pursuant to 13-27-312)

23 (c) Voters are urged to read the complete text of the measure, which appears (on the reverse side of,
24 attached to, etc., as applicable) on this sheet. A signature on this petition is only to put the measure on the ballot
25 and does not necessarily mean the signer agrees with the measure.

26 (d)

27 **WARNING**

28 A person who purposefully signs a name other than the person's own to this petition or who signs more
29 than once for the same issue at one election or signs when not a legally registered Montana voter is subject to
30 a \$500 fine, 6 months in jail, or both.



1 (e) Each person must sign the person's name and list the person's address or telephone number in
2 substantially the same manner as on the person's voter registry card, or the signature will not be counted.

3 (2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature,
4 residence address, legislative representative district number, ~~and~~ AND printed last name AND FIRST AND MIDDLE
5 INITIALS of the signer, ~~and the signer's date of birth~~. In place of a residence address, the signer may provide the
6 signer's post-office address or the signer's home telephone number. An address provided on a petition by the
7 signer that differs from the signer's address as shown on the signer's voter registration card may not be used
8 as the only means to disqualify the signature of that petition signer."
9

10 **Section 6.** Section 13-27-206, MCA, is amended to read:

11 **"13-27-206. Petition for initiative for constitutional convention.** (1) The following is substantially the
12 form for a petition to direct the secretary of state to submit to the qualified voters the question of whether there
13 will be a constitutional convention:

14 PETITION TO PLACE
15 INITIATIVE NO.____, CALLING FOR
16 A CONSTITUTIONAL CONVENTION, ON
17 THE ELECTION BALLOT

18 (a) If 10% of the voters in each of 40 legislative districts sign this petition and the total number of voters
19 signing this petition is, the question of whether to have a constitutional convention will appear on the next
20 general election ballot. If a majority of voters vote for the constitutional convention, the legislature shall call for
21 a constitutional convention at its next session.

22 (b) We, the undersigned Montana voters, propose that the secretary of state place the question of
23 whether to hold a constitutional convention on the, 20..., general election ballot:

24 (Title of the initiative written pursuant to 13-27-312)

25 (Statement of implication written pursuant to 13-27-312)

26 (c) A signature on this petition is only to put the call for a constitutional convention on the ballot and
27 does not necessarily mean the signer is in favor of calling a constitutional convention.

28 (d)

29 WARNING

30 A person who purposefully signs a name other than the person's own to this petition, who signs more

1 than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject
2 to a \$500 fine or 6 months in jail, or both.

3 (e) Each person is required to sign the person's name and list the person's address or telephone
4 number in substantially the same manner as on the person's voter registration card or the signature will not be
5 counted.

6 (2) Numbered lines must follow the heading. Each numbered line must also contain spaces for the
7 signature, residence address, legislative representative district number, ~~and~~ AND printed last name AND FIRST
8 AND MIDDLE INITIALS of the signer, ~~and the signer's date of birth~~. In place of a residence address, the signer may
9 provide the signer's post-office address or the signer's home telephone number. An address provided on a
10 petition by the signer that differs from the signer's address as shown on the signer's voter registration card may
11 not be used as the only means to disqualify the signature of that petition signer."
12

13 **Section 7.** Section 13-27-207, MCA, is amended to read:

14 **"13-27-207. Petition for initiative for constitutional amendment.** (1) The following is substantially
15 the form for a petition for an initiative to amend the constitution:

16 PETITION TO PLACE CONSTITUTIONAL
17 AMENDMENT NO. ____ ON
18 THE ELECTION BALLOT

19 (a) If 10% of the voters in each of ~~40 legislative districts 28 counties~~ ONE-HALF OF THE COUNTIES sign this
20 petition and the total number of voters signing the petition is, this constitutional amendment will appear on
21 the next general election ballot. If a majority of voters vote for this amendment at that election, it will become part
22 of the constitution.

23 (b) We, the undersigned Montana voters, propose that the secretary of state place the following
24 constitutional amendment on the, 20..., general election ballot:

25 (Title of the proposed constitutional amendment written pursuant to 13-27-312)

26 (Statement of implication written pursuant to 13-27-312)

27 (c) Voters are urged to read the complete text of the measure, which appears (on the reverse side of,
28 attached to, etc., as applicable) this sheet. A signature on this petition is only to put the constitutional amendment
29 on the ballot and does not necessarily mean the signer agrees with the amendment.

30 (d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, residence address, ~~legislative representative district number~~ county of residence, and AND printed last name AND FIRST AND MIDDLE INITIALS of the signer, ~~and the signer's date of birth~~. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 8. Section 13-27-301, MCA, is amended to read:

"13-27-301. Submission of petition sheets -- withdrawal of signatures. (1) Signed sheets or sections of petitions ~~shall~~ with original signatures must be submitted to the official responsible for registration of electors in the county in which the signatures were obtained no sooner than 9 months and no later than 4 weeks before the final date for filing the petition with the secretary of state.

(2) If it is impractical to submit signed sheets or sections of petitions with original signatures by the deadline provided in subsection (1), a copy or facsimile may be submitted to the proper county official by the deadline. Signed sheets or sections of petitions with original signatures must be submitted within 7 calendar days after the deadline. Failure to submit signed sheets or sections of petitions with original signatures within 7 calendar days will invalidate the signed sheets or sections submitted by copy or facsimile.

~~(2)~~(3) Signatures may be withdrawn from a petition for constitutional amendment, constitutional convention, initiative, or referendum up to the time of final submission of petition sheets as provided in subsection (1). The secretary of state shall prescribe the form to be used by an elector desiring to have ~~his~~ the elector's signature withdrawn from a petition."

Section 9. Section 13-27-302, MCA, is amended to read:

1 (2) For the purpose of allocating the signatures of voters among the several legislative representative
 2 districts of the state as required to certify a petition for a ~~ballot issue~~ referendum or a call of a constitutional
 3 convention under the provisions of this chapter following the filing of a districting and apportionment plan under
 4 5-1-111 and before the first gubernatorial election following the filing of the plan, the new districts must be used
 5 with the number of signatures needed for each legislative representative district being the total votes cast for
 6 governor in the last gubernatorial election divided by the number of legislative representative districts.

7 (3) Upon discovery of fraudulent signatures or duplicate signatures of an elector on any one issue, the
 8 election administrator may submit the name of the elector or the petition circulator, or both, to the county attorney
 9 to be investigated under the provisions of 13-27-106 and 13-35-207."
 10

11 **SECTION 11. SECTION 13-27-304, MCA, IS AMENDED TO READ:**

12 **"13-27-304. County official to forward verified sheets.** The county official verifying the number of
 13 registered electors signing the petition shall forward it to the secretary of state by certified mail with a certificate
 14 in substantially the following form attached:

15 To the Honorable, Secretary of State of the state of Montana:

16 I,, (title) of the County of, certify that I have examined the attached (section containing
 17 sheets) or (.... sheets) of the petition for (referendum, initiative, constitutional convention, or constitutional
 18 amendment) No. in the manner prescribed by law; and I believe that (number) signatures in (Legislative
 19 Representative District No. or the County of) (repeat for each district or county included in sheet or section)
 20 are valid; and I further certify that the affidavit of the circulator of the (sheet) (section) of the petition is attached
 21 and the post-office address, residence address, or telephone number ~~and legislative representative district~~
 22 ~~number~~ is completed for each valid signature.

23 Signed:.....(Date)(Signature)

24 Seal(Title)"
 25

26 **Section 12.** Section 13-27-307, MCA, is amended to read:

27 **"13-27-307. Consideration and tabulation of signatures by secretary of state.** (1) The secretary of
 28 state shall consider and tabulate only the signatures on petitions that are certified by the proper county official;
 29 ~~and each certificate is prima facie evidence of the facts stated in the certificate. The secretary of state may reject~~
 30 any petition that does not meet statutory requirements. The secretary of state shall return a rejected petition to

1 the proper county official. The county official shall correct the error, when applicable, or send or deliver the
 2 rejected petition to the signature gatherer. However, the The secretary of state may consider and tabulate any
 3 signature not certified by the county official that is certified by a notary public of the county in which the signer
 4 resides to be the genuine signature of an elector legally qualified to sign the petition.

5 (2) The official certificate of the notary public for any signature not certified as valid by the county official
 6 must be in substantially the following form:

7 State of Montana)

8)ss.

9 County of.....)

10 I, (name), a ~~duly~~ qualified and acting notary public in and for the above-named county and state,
 11 certify that I am personally acquainted with all of the following-named electors whose signatures are affixed to
 12 the attached (petition) (copy of a petition) and I know that they are registered electors of the state of Montana
 13 and of the county ~~and~~ or legislative district written after their names in the petition and that their post-office
 14 addresses are correctly stated in the petition.

15(Names of electors)

16 In testimony whereof, I have set my hand and official seal this.... day of....., 20...

17(Signature)

18 Seal(Notarial information)"

19

20 **NEW SECTION. Section 13. Effective date.** [This act] is effective July 1, 2003.

21 - END -